IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.7421 OF 2004

1. The Bombay Diocesan Trust Association.. & Anr. — Petitioners

vs

1. Christphore E.Gomes, and ors. — Respondents

WITH

WRIT PETITION NO.7422 OF 2004

1. The Bombay Diocesan Trust Association.. & Anr. — Petitioners

vs

1. Christphore E.Gomes, and ors. — Respondents

WITH

WRIT PETITION NO.7439 OF 2004

1. The Bombay Diocesan Trust Association.. & Anr. — Petitioners

vs

1. Christphore E.Gomes, and ors. — Respondents

WITH

WRIT PETITION NO.7440 OF 2004

1. The Bombay Diocesan Trust Association.. & Anr. — Petitioners

vs

1. Christphore E.Gomes, and ors. — Respondents

Smt. V.V.Thorat, for the petitioners.
Mr G.S.Joshi, for respondent nos 1 and 2
Mr Kiran Makasre, for respondent no.6.

CORAM : D.B.BHOSALE,J.
DATE : 9th September, 2004.

PC:

1. Heard the learned counsel for the parties.

2. Rule. Returnable forthwith. The learned counsel for the respondents waive service. By consent, rule is heard finally.

3. These four petitions are directed against an

identical order dated 13.8.2004 passed in Chamber Summons Nos 993/04, 994/04,995/04 and 996/04 taken out in four different Suits, bearing S.C.Suit Nos.4061/96, 5501/96, 1630/97 and 1631/97 respectively. The petitioners have challenged the orders passed in all the four Chamber Summons mainly on the ground that they were allowed hastily. According to the petitioners, the Draft Chamber Summons taken out for adding respondent nos 1 and 2 as party defendants were tendered across the bar on 13.8.2004 and without giving an opportunity to the petitioners to file their reply, they were allowed on the very day. The Chamber Summons were taken out by respondent nos 1 and 2 for adding them as party defendants in all the suits. Ms.Thorat, learned counsel for the petitioners, submits that both the respondents are not necessary parties in these suits. In so far as respondent no.1 is concerned, she further submits that similar prayer made by him earlier in Chamber Summons No.631 of 2001 was rejected and that order was carried in appeal before this Court and that the said appeal was also rejected and, therefore, in any case respondent no.1 was not entitled to be added as party-defendant in all the four suits. It was further submitted that the impugned order was passed so hastily the petitioners even could not bring the order passed in Chamber Summons No.631 of 2001 to the notice of the Court. The learned

counsel for the respondents does not controvert the submissions of Ms Thorat in so far as respondent no.1 is concerned. From the overall facts and circumstances of the case, I am satisfied that the learned Judge ought to have granted atleast breathing time to the petitioners before passing impugned order in the chamber summons tendered across the bar. However, I would not like to express any view as to whether respondent nos 1 and 2 are necessary parties in all the four suits at this stage. I am inclined to allow all the four petitions in view of the fact that the petitioners were not given sufficient opportunity to file reply affidavit to the chamber summons and bring all material facts on record. In the circumstances, I pass the following order.

(i) The impugned orders passed in all the four writ petitions dated 13.8.2004 are quashed and set aside. The learned judge of the City Civil Court is directed to decide all the Chamber Summons afresh after giving an opportunity of being heard to all the parties as expeditiously as possible and preferably within a period of four weeks from the date of receipt of this order.

(ii) The petitioners are directed to communicate this order to the learned Judge of the City Civil Court within one week from today.

(iii) In the interest of justice, it would be more appropriate to hear and dispose of the Chamber Summons

Nos 527/04 in Suit No.5501/96, 529/04 in Suit no.1630/97, and 530/04 in Suit No.1631 of 1997 taken out by the petitioners after the disposal of the Chamber Summons taken out by respondent nos 1 and 2, i.e. Chamber Summons Nos 993/04,994/04,996/04 and 996/04. The petitioners' Chamber Summons be also disposed of expeditiously and preferably within two weeks from the date of disposal of respondent nos 1 and 2's Chamber Summons.

. Rule is disposed of in the aforesaid terms.

(D.B.BHOSALE, J.)